

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 163

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO SCRAP DEALERS; REPEALING CHAPTER 27, TITLE 54, IDAHO CODE, RELATING TO REGULATION OF SCRAP DEALERS; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 27, TITLE 54, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE RECORDS REQUIRED FOR PURCHASING NONFERROUS OR STAINLESS STEEL METAL PROPERTY FROM THE GENERAL PUBLIC, TO PROVIDE REQUIREMENTS FOR PURCHASING OR RECEIVING METAL PROPERTY FROM THE GENERAL PUBLIC, TO PROVIDE FOR A RECORD FOR COMMERCIAL ACCOUNTS, TO PROVIDE FOR REPORTING TO LAW ENFORCEMENT, TO PROVIDE FOR PRESERVING EVIDENCE OF METAL THEFT, TO PROVIDE UNLAWFUL VIOLATIONS AND TO PROVIDE EXEMPTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 27, Title 54, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 27, Title 54, Idaho Code, and to read as follows:

CHAPTER 27
SCRAP DEALERS

54-2701. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial account" means a relationship between a scrap metal business and a commercial enterprise that is ongoing and properly documented under this chapter.

(2) "Commercial enterprise" means a corporation, partnership, limited liability company, association, state agency, political subdivision of the state, public corporation, or any other legal or commercial entity.

(3) "Commercial metal property" means: Utility access covers; street light poles and fixtures; road and bridge guardrails; highway or street signs; water meter covers; traffic directional and control signs; traffic light signals; any metal property marked with the name of a commercial enterprise, including, but not limited to, a telephone, cable, electric, water, natural gas, or other utility, or railroad; building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts, or gutters; aluminum or stainless steel fence panels; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; or agricultural irrigation wheels, sprinkler heads, and pipes; or stainless steel designed to be used in agricultural or commercial businesses.

(4) "Nonferrous metal property" means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, gold, silver, platinum and their alloys.

(5) "Record" means a paper, electronic, or other method of storing information.

(6) "Scrap metal business" means a scrap metal supplier, scrap metal recycling center, and scrap metal processor.

(7) "Scrap metal processor" means a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing or receiving metal property for the purpose of altering the metal in preparation for its use as feedstock in the manufacture of new products, and that maintains a hydraulic bailer, shearing device, or shredding device for recycling.

(8) "Scrap metal recycling center" means a person with a current business license that is engaged in the business of purchasing or receiving nonferrous metal property for the purpose of aggregation and sale to another scrap metal business and that maintains a fixed place of business within the state.

(9) "Scrap metal supplier" means a person that is engaged in the business of purchasing or receiving nonferrous metal property for the purpose of aggregation and sale to a scrap metal recycling center or scrap metal processor and that does not maintain a fixed business location in the state.

(10) "Transaction" means a pledge, or the purchase of, or the trade of any item of nonferrous metal property by a scrap metal business from a member of the general public. "Transaction" does not include donations or the purchase or receipt of nonferrous metal property by a scrap metal business from a commercial enterprise, from another scrap metal business, or from a duly authorized employee or agent of the commercial enterprise or scrap metal business.

54-2702. RECORDS REQUIRED FOR PURCHASING NONFERROUS OR STAINLESS STEEL METAL PROPERTY FROM THE GENERAL PUBLIC. (1) At the time of a transaction, every scrap metal business doing business in this state shall produce, wherever that business is conducted, an accurate and legible record of each transaction involving nonferrous metal property or stainless steel metal property.

This record must be written in the English language, documented on a standardized form or in electronic form, and contain the following information:

(a) The signature of the person with whom the transaction is made;

(b) The date, location and value of the transaction;

(c) The name of the employee representing the scrap metal business in the transaction;

(d) The name and street address of the person with whom the transaction is made;

(e) A photocopy or digital image of a current driver's license that is valid to operate a motor vehicle in the state of Idaho or a United States or Idaho government-issued picture identification of the seller; and

(f) The license plate number of any vehicle required to have such a plate, if any, used by the person with whom the transaction is made.

(2) For every transaction that involves nonferrous or stainless steel metal property, every scrap metal business doing business in the state shall require the person with whom a transaction is being made to sign a declaration.

The declaration may be included as part of the transactional record required under subsection (1) of this section, or on a receipt for the transaction. The declaration must state substantially the following: "I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not to the best of my knowledge stolen property."

The declaration must be signed and dated and the time of day noted by the person with whom the transaction is being made. An employee of the scrap metal business must witness the signing and dating of the declaration and sign the declaration accordingly before any transaction may be consummated.

54-2703. REQUIREMENTS FOR PURCHASING OR RECEIVING METAL PROPERTY FROM THE GENERAL PUBLIC. (1) No scrap metal business may enter into a transaction to purchase or receive nonferrous metal property or stainless steel from any person who cannot produce identification as described in section 54-2702(1)(e), Idaho Code.

(2) No scrap metal business may purchase or receive commercial metal property unless the seller: (a) Has a commercial account with the scrap metal business; (b) can prove ownership of the property by producing written documentation that the seller is the owner of the property; or (c) can produce written documentation that the seller is an employee or agent authorized to sell the property on behalf of a commercial enterprise.

(3) No scrap metal business may enter into a transaction to purchase or receive metallic wire that was burned in whole or in part to remove insulation unless the seller can produce written proof to the scrap metal business that the wire was lawfully burned or lawfully recovered from a burned structure.

(4) No scrap metal business may purchase or receive beer kegs from anyone except a distributor or manufacturer of beer kegs or licensed brewery.

54-2704. RECORD FOR COMMERCIAL ACCOUNTS. (1) Every scrap metal business must create and maintain a permanent record with a commercial enterprise, including another scrap metal business, in order to establish a commercial account. That record, at a minimum, must include the following information:

(a) The full name of the commercial enterprise or commercial account;

(b) The business address and telephone number of the commercial enterprise or commercial account;

(c) The full name of the primary contact of the commercial enterprise or whoever is authorized to deliver nonferrous metal and stainless steel and commercial metal property to the scrap metal business; and

(d) The full name of the primary contact of the commercial enterprise who is authorized to permit a scrap metal business to take possession of nonferrous metal and stainless steel and commercial metal property at the business location of the commercial enterprise.

(2) The record maintained by a scrap metal business for a commercial account must document every purchase or receipt of nonferrous metal and stainless steel and commercial metal property from the commercial enterprise. The documentation must include, at a minimum, the following information:

(a) The time, date and value of the property being purchased or received;

(b) A description of the predominant types of property being purchased or received.

(3) Payment for nonferrous metal and stainless steel and/or commercial metal property purchased or received by the scrap metal business will be made by check payable to the commercial enterprise.

54-2705. REPORTING TO LAW ENFORCEMENT. Upon request by any commissioned law enforcement officer of the state or any of its political subdivisions, every scrap metal business shall make available a full, true, and correct record from the purchase or receipt of nonferrous metal property or stainless steel involving a specific individual, vehicle, or item of nonferrous metal property or commercial metal property. This information may be transmitted within a specified time of not less than five (5) business days to the applicable law enforcement agency electronically, by facsimile transmission, or by modem or similar device, or by delivery of computer disk subject to the requirements of, and approval by, the chief of police or the county's chief law enforcement officer.

54-2706. PRESERVING EVIDENCE OF METAL THEFT. (1) Following notification, either verbally or in writing, from a commissioned law enforcement officer of the state or any of its political subdivisions, that an item of nonferrous metal property, stainless steel, or commercial metal property has been reported as stolen, a scrap metal business shall hold that property intact and safe from alteration, damage, or commingling, and shall place an identifying tag or other suitable identification upon the property. The scrap metal business shall hold the property for a period of time as directed by the applicable law enforcement agency up to a maximum of ten (10) business days.

54-2707. UNLAWFUL VIOLATIONS. It is a misdemeanor for:

(1) Any person to deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of nonferrous metal property or commercial metal property in order to deceive a scrap metal business;

(2) Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this chapter;

(3) Any person to sign the declaration required under this chapter knowing that the nonferrous metal property subject to the transaction is stolen;

(4) Any scrap metal business to possess commercial metal property that was not lawfully purchased or received under the requirements of this chapter;

(5) Any scrap metal business to engage in a series of transactions valued at less than twenty dollars (\$20.00) with the same seller for the purposes of avoiding the requirements of this chapter; or

(6) Any person to intentionally violate the provisions of section 54-2703, Idaho Code.

(7) Any person who has pled guilty to or been found guilty of violating the provisions of this section for a second time within five (5) years is guilty of a felony.

54-2708. EXEMPTIONS. The provisions of this chapter do not apply to transactions conducted by the following:

(1) Motor vehicle dealers;

(2) Persons in the business of operating an automotive repair facility;

- 1 (3) Persons in the business of buying or selling empty food and beverage containers,
2 including metal food and beverage containers, except beer kegs; and
3 (4) Transactions of a value of less than twenty dollars (\$20.00).